



PATENT  
Customer No. 22,852  
Attorney Docket No. 05725.0570-01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Nathalie MOUGIN ) Group Art Unit: 1614  
Application No.: 10/656,238 ) Examiner: Leslie A. Royds  
Filed: September 8, 2003 )  
For: COSMETIC COMPOSITION ) Confirmation No.: 1859  
COMPRISING POLYMERS )  
HAVING A STAR STRUCTURE, )  
THE POLYMERS, AND THEIR )  
USE )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES**

In a Restriction Requirement dated January 10, 2007, the period for response having been extended to March 12, 2007 (as March 10, 2007, falls on a Saturday), by a request for extension of one month and fee payment filed concurrently herewith, the Examiner required restriction under 35 U.S.C. § 121 between:

- I. Group I, claims 41-52 and 54;
- II. Group II, claims 55-58; and
- III. Group III, claims 59-61.

Office Action at page 2.

While Applicant disagrees with the restriction requirement, to be fully responsive, Applicant elects, with traverse, to prosecute Group II, claims 55-58 drawn to a method

for retaining or shaping the hair comprising the application of a composition comprising at least one polymer having a star structure defined by Formula (I) to said hair.

Applicant traverses the restriction/election requirement on the grounds that the all the pending claims of the present application encompass the star polymer as defined by formula (I). Thus, the search and examination of Group II should include the subject matter of Groups I and II and thus, a search would overlap for the subject matter of the groups. Accordingly, a serious burden to examine all the groups together would not exist.

Thus, in order to avoid unnecessary delay, duplicative examination by the Patent Office, the restriction requirement between Groups I, II, and III should be withdrawn.

#### **ELECTION OF SPECIES REQUIREMENT**

The Examiner further alleges that the present application contains claims directed to patentably distinct species of polymer having a star structure defined by Formula (I). Office Action at page 4. According to the Office, the present claims contain structurally and/or chemically distinct compounds and that a comprehensive search of the patent and non-patent literature for any one such polymer would not necessarily result in a comprehensive search of any one or more or all of the other polymers encompassed by the present claims. *Id.*

While Applicant disagrees with the election of species requirement, to be fully responsive, Applicant elects, with traverse, to prosecute the specie disclosed in Example 2 directed to the preparation of a star polymer with 8 polymer (isobutyl acrylate) branches, each branch of which is a block copolymer: calix(poly(tert-butyl

acry;ate)-block poly-(butyl acrylate), i.e., where the monomers "M" ( $M_i$ ,  $M_k$  and  $M_j$ ) are chosen from (meth)acrylic esters obtained from linear or branched aliphatic alcohols. The elected claims encompassed by the elected species include claims 55-58. With respect to providing a structural depiction of the elected species, Applicant notes that Example 2 of the present specification describes the polymer and at least one way to prepare it.

Accordingly, Applicant respectfully requests that the full scope of the claimed invention continue to be examined in this application without restriction or election requirement. If the Office chooses to maintain the election requirement, Applicant respectfully expects the Office, if the elected species is found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability thereof, that is, extending the search to a reasonable number of the non-elected species according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

In view of the foregoing remarks, Applicant respectfully submits that both the restriction and the election of species requirement are in error and request that the requirements be withdrawn.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: March 12, 2007

By:   
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